

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO.00-6312-CR-ROETTGER

UNITED STATES OF AMERICA

v.

JERMAINE C. WILLIAMS and
LOWEN ESPINUEVA,

DEFENDANTS.
----- /

NIGHT BOX
FILED

JUN 8 2001

CLARENCE MAUDUX
CLERK, USDC / SD / FL

GOVERNMENT'S RESPONSE TO DEFENDANT WILLIAMS' MOTION TO COMPEL
PRODUCTION OF RELEVANT MATERIAL AND INFORMATION CONCERNING DNA
ANALYSIS

The United States of America, in response to the Standing Discovery Order issued in this case and Defendant Williams' Motion to compel production of relevant material and information concerning DNA analysis, file this response which is alphabetized and numbered to correspond to Defendant Williams' Motion to compel production of relevant material and information concerning DNA analysis and states as follows:

5. "The following information and materials are requested ..."

a. "Scope of DNA tests ..."

The FBI Laboratory performed Short Tandem Repeat (STR) DNA analysis, mitochondrial DNA (mtDNA) analysis, and analyzed trace evidence in this case. The STR analysis was performed by Forensic DNA Examiner Brendan Shea. A copy of Mr. Shea's curriculum vitae (CV) was previously provided. The mtDNA analysis was performed by Forensic DNA Examiner Alice R. Isenberg and a copy of her CV is enclosed.

b. "Crime scene investigation ..."

Enclosed is a copy of Lee H.C., Gaensslen R.E., Bigbee P.D., and Kearney J.J.,
Guidelines for the Collection and Preservation of DNA Evidence, (U.S. Department of Justice,

57
R

FBI). These are the guidelines used by FBI personnel for collecting and preserving DNA evidence samples. A direct inquiry may be made to the individuals who collected the evidence in this case.

c. "Sample handling instructions ..."

Refer to the response to request 5b. In addition, enclosed is a copy of all of the file material related to the analyses performed by the FBI Laboratory in this case. This material includes bench notes, computer printouts, films, and all other specific information regarding the analyses performed in this case. Two CD Rom disks are included with this material. These files cannot be accessed unless the proprietary software, which is available from ABI, is installed on your computer.

Specific information regarding the evidence received by the FBI Laboratory will be found in the enclosed file material. You may also refer to the enclosed copy of the STR analysis protocol and the mtDNA sequencing protocol utilized by the FBI Laboratory.

d. "Chain of custody ..."

Enclosed is a copy of the chain of custody for this case. Information regarding handling and storage of evidence may also be found in the enclosed protocols. Any other inquiries regarding established procedures for chain of custody may be directed to the FBI Laboratory Examiners.

e. "Current disposition of evidence ..."

Information regarding disposition of the evidence can be found in the file material provided in response 5c.

f. "Laboratory personnel ..."

Refer to the response to request 5a. In addition, enclosed is a copy of the Cvs for the reviewing Examiners Maribeth A. Donovan and Constance L. Fisher.

g. "Case files ..."

g.1 through g.6

Refer to the file material provided in the response to request 5c.

h. "Documents relied upon ..."

h.1 through h.7

Refer to the protocols provided in response 5c. In addition, refer to the case file

enclosed above.

h.8 "Manufacturer's instructions ..."

A direct inquiry should be made to the manufacturers to obtain materials relating the typing kits and equipment utilized by the FBI Laboratory in STR and mtDNA analyses. Refer to the protocols provided above for the names of the specific suppliers of the materials utilized by the FBI Laboratory.

i. "Genetic independence ..."

Refer to the articles referenced in the enclosed protocol. Numerous articles regarding STR analysis and researched by any defense expert. However, the following papers are being enclosed:

Moretti T.R., Baumstark A.L., Defenbaugh D.A., Keys, K., and Budowle B., Validation of Short Tandem Repeats (STRs) for Forensic Usage: Performance Testing Fluorescent Multiplex STR Systems and Analysis of Authentic and Simulated Forensic Samples, **Journal of Forensic Sciences** (accepted for publication in May 2001); and

Moretti T.R., Baumstark A.L., Defenbaugh D.A., Keys K., Brown A., and Budowle B., Validation of STR Typing by Capillary Electrophoresis, **Journal of Forensic Sciences** (accepted for publication in May 2001).

j through k.

A direct inquiry should be made to the manufacturers to obtain materials relating the typing kits and equipment utilized by the FBI Laboratory in STR and mtDNA analyses. Refer to the protocols provided above for the names of the specific suppliers of the materials utilized by the FBI Laboratory.

l. "Molecular basis ..."

Numerous articles regarding STR and mtDNA analyses have been published, and can be researched by any competent scientist or defense expert. The FBI is not in a position to, nor required to under the standing discovery order issued in this case, to conduct a full literature search for the defense or its experts. However, refer to the reference section of the STR and mtDNA protocols for pertinent articles.

m. "Computer generated data ..."

m.1 through m.4

Refer to the file material provided above.

n. "Precautions against contamination ..."

Refer to the articles referenced in the enclosed protocols. In addition, refer to the response to request 5i.

o. "Instances of contamination ..."

A direct inquiry may be made to the DNA Examiners regarding this issue.

p. "Control strips ..."

Refer to the file material provided above.

q through s.

The database tables used by the FBI in STR typing may be found in the protocol provided above. In addition, the FBI's STR database can be found on [WWW.FBI.Gov](http://WWW.FBI.Gov/Programs/Lab/FSC/Current/Budowle.HTM), Programs/Lab/FSC/Current/Budowle.HTM under Forensic Science Communications, V.1, No.2, July 1999.

Refer to the mtDNA protocol for mtDNA database information.

Due to the volume of material, all other data pertaining to the FBI databases will be made available for review by the defense or its experts at the Forensic Science Research and Training Center (FSRTC) Quantico, Virginia.

t. "Statistical independence of markers ..."

Numerous articles regarding STR and mtDNA analyses have been published., and can be researched by any competent scientist or defense expert. The FBI is not in a position to conduct a full literature search for the defense or its experts. However, refer to the reference section of the enclosed protocols for pertinent articles.

u. "Accreditation ..."

The American Society of Crime Laboratory Directors (ASCLD)/Laboratory Accreditation Board (LAB) has completed the accreditation process with the regards to the FBI Laboratory. Enclosed is a copy of the certificate of accreditation.

v. "Proficiency test program ..."

Information regarding the proficiency tests performed by Mr. Shea and Ms. Isenberg will be made available for review by the defense or its experts at FBI Headquarters for them to do so in the presence of FBI personnel.

w through y.

The FBI Laboratory does not calculate an error rate. However, there have been no false positives on any of the proficiency tests completed by the FBI DNA examiners and technicians. All data connected with the open and blind proficiency tests will be made available for review at FBI Headquarters, Washington, D.C.

z. "Photocopies of all reports ..."

Refer to the file material provided in response 5c.

aa through bb

Refer to the file material provided in response 5c.

cc. "Copies of all databases ..."

The database tables used by the FBI in STR typing may be found in the protocol provided above. In addition, the FBI's STR database can be found on [WWW.FBI.Gov](http://WWW.FBI.Gov/Programs/Lab/FSC/Current/Budowle.HTM) Programs/Lab/FSC/Current/Budowle.HTM under Forensic Science Communications, V. 1, No. 2, July 1999.

Refer to the mtDNA protocol for mtDNA database information.

dd through pp.

Refer to the protocols and file materials provided in response 5c.

qq through rr.

A direct inquiry may be made to the DNA Examiners regarding these issues.

6. "The following materials and information ..."

a through b.

Refer to the protocols and case file provided above. A direct inquiry may be made to the DNA Examiner regarding these issues.

WHEREFORE, based on the above the United States respectfully requests that this Honorable Court deny Defendant's Defendant Williams' Motion to compel production of relevant material and information concerning DNA analysis

Respectfully submitted,

GUY A. LEWIS
UNITED STATES ATTORNEY

By: 

THOMAS P. LANIGAN
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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Government's Response to Defendant Williams' Motion to compel production of relevant material and information concerning DNA analysis was mailed this 8th day of June, 2001, to: Darryl Wilcox, Assistant Federal Public Defender 111 NE 3rd Ave Fort Lauderdale, FL and Barry Wax, Esq. 201 S. Biscayne Blvd. Miami, FL 33131

A handwritten signature in dark ink, appearing to read "Thomas P. Lanigan", is written over a horizontal line.

THOMAS P. LANIGAN
ASSISTANT UNITED STATES ATTORNEY